

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

# Memorandum

TO : Carl W. Belcher, Chief  
General Crimes Section  
Criminal Division

DATE: May 10, 1967

FROM : Kay Thurman

129-012-3

SUBJECT: Guidelines for the disclosure of materials  
relating to the assassination of President  
Kennedy

After the President's Commission on the Assassination of President Kennedy completed its inquiry and submitted its report, its files were transferred to the National Archives on November 23, 1964. 1/ Until that time, no thought had been given to the necessity of standards for the disclosure of information in those files; staff members apparently assumed that the Archives' standard 75-year restriction on public access to historic investigative materials would apply. 2/ In December 1964, the Archivist was quoted as saying that that 75-year restriction would apply unless exceptions were made by the originating agencies.

In early January 1964, Robert M. L. Johnson, mayor of Cedar Rapids, Iowa, expressed objections to the restrictions in a letter to the President. The general DJ files on the subject (129-012-4) reveal that the formulation of the guidelines in question was prompted by receipt of Mayor Johnson's letter.

1/ 44 U.S.C. 397(a) Acceptance of records for historical preservation.

The Administrator, whenever it appears to him to be in the public interest, is authorized--

- (1) to accept for deposit with the National Archives of the United States the records of any Federal agency or of the Congress of the United States that are determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government;

- 2/ CFR § 101-7.101-4 Access to classified and restricted records.

Access to records bearing security classification will be governed by the terms of Executive Order 10501 of November 5, 1963 (3 CFR) as amended. Access to records subject to other forms of restriction will be governed by the conditions set forth by the Archivist in the pertinent Restriction Statement.

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The answer first proposed by the Department of Justice read in part:

Because of the broad nature of the investigation, facts and alleged facts from and about many innocent people were developed; for example, the records contain information from Federal income tax returns which by act of congress are shielded from public exposure. In the light of the comprehensiveness of the Commission's report and exhibits, it is believed that it would be quite improper to release information which could embarrass or damage innocent persons without serving any legitimate interest.

For these reasons, as well as the fact that the techniques and sources of investigatory agencies must be protected, reports of investigative and similar materials are withheld from use, except with the permission of the originating agency, for a period of 75 years.

After a reconsideration, however, Justice held this proposed answer in abeyance and instead sent a questionnaire to each agency concerned with the Warren Commission investigation, <sup>3/</sup> seeking its views on disclosure. The Office of Legal Counsel correlated the answers and devised a set of guidelines for disclosure, which were set forth in a letter of April 13, 1965 from then Attorney General Katzenbach to McGeorge Bundy, Special Assistant to the President:

- a. Statutory requirements of nondisclosure should be observed;
- b. Security classifications should be respected, but the agency responsible for the classification should consider whether the classification can be eliminated or graded down consistently with the national security;
- c. All unclassified material which has been disclosed verbatim or in substance in the Report of the President's Commission or accompanying published documents should be made available to the public on a regular basis. (In this connection, it should be noted that the Archivist has advised that a final determination of which reports have been published in whole or in part, verbatim or in substance, will not be available before 1966).

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<sup>3/</sup> These agencies were: FBI, Secret Service, Post Office Department, Central Intelligence Agency, Department of State, Department of Defense, Internal Revenue Service, Immigration and Naturalization Service, National Archives, and the Dallas Police Department.



- d. Unclassified material which has not already been disclosed in another form should be made available to the public on a regular basis unless disclosure
- (1) will be detrimental to the administration and enforcement of the laws and regulations of the United States and its agencies;
  - (2) may reveal the identity of confidential sources of information or the nature or confidential methods of acquiring information, and thereby prevent or limit the use of the same or similar sources and methods in the future;
  - (3) may lead to the incorrect identification of sources of information and thereby embarrass individuals or the agency involved;
  - (4) would be a source of embarrassment to innocent persons, who are the subject or source of the material in question, because of the dissemination of gossip and rumor or details of a personal nature having no significant connection with the assassination of the President;
  - (5) will reveal material pertinent to the criminal prosecution of Jack Ruby for the murder of Lee Harvey Oswald, prior to the final judicial determination of that case.

Bundy approved these in a responding memorandum of April 19, 1965, and signed a letter to Mayor Johnson incorporating the guidelines, dated April 20. As generally reprinted, guidelines (c) and (d)(3) are omitted and so the whole set is renumbered accordingly. The standards represent an independent effort to categorize a particular body of information, and do not relate to other standards except as the materials may be "confidential," "secret," or "top secret."

The agencies from whom material concerning the assassination had originated applied the guidelines to that material and authorized the disclosure of approximately 76% of the total information made available to the Commission. Reapplication of the guidelines is directed to occur at five-year intervals. Materials created by the Warren Commission itself, such as staff memos, are now being evaluated under the guidelines by the Archives personnel.

The guidelines have not been regarded as classified information themselves, and so have been disseminated upon request to the National Archives staff. Indeed, in answer to inquiries regarding particular documents withheld, the staff has disclosed the reason for the nondisclosure. The attached copies of three letters sent over the Archivist's signature to private individuals (one of whom is Harold "Whitewash" Weisberg) will indicate the extent to which the guidelines and their application are public knowledge.

The Information Disclosure Act, effective July 1, 1967, will have little if any effect on the current categorization of Warren Commission materials. This is most easily shown by considering the types of materials:

1). X-rays, photographs, and diagrams from the autopsy: These materials were deposited with the National Archives under an agreement with the Kennedy family in the fall of 1966, with the operation of the new statute clearly in mind. The Presidential Library statute (44 U.S.C. 397 (e) and (f)) provides that materials may be given to or deposited in the Archives subject to restrictions by the donor. An exemption in the Information Disclosure Act refers to materials restricted by statute from public view, and it is believed that the Presidential Library provisions and the Kennedy agreement would so protect these documents. (see (e)(3) )

2). Security documents: Executive Order 10501 established the classification for material considered to be vital to the national defense, directed its categorization and non-disclosure. The Order remains in force and will be unaffected by the Information Disclosure Act (see (e)(1)) so FBI and CIA reports, as well as other material considered of a security nature will remain non-public.

3). FBI and Secret Service investigative reports: The Information Disclosure Act contains an exemption (see (e)(7) for investigative reports used for law enforcement purposes, and so those FBI and Secret Service documents previously undisclosed will not be affected.

4). Other materials: The documents presently withheld on the grounds of taste (guideline 3(c)) are generally FBI and Secret Service investigative reports, and so will be protected by the exemption discussed in paragraph (3) above. The documents created by the Commission itself, such as staff memoranda containing members' speculations or reactions to the various theories expounded at the time, will be protected by the "internal memoranda" exemption ((e)(5)) in the Information Disclosure Act. The one remaining category

that may cause problems consists of material not revealed through the Warren Commission report: e.g., excisions in testimony of important witnesses. In most cases the excision was made to prevent embarrassment to the witness, and so will fall under the "unwarranted invasion of privacy," exemption ((e)(6)) of the new Act. Mr. Richman and Mr. Mondello of OLS, see no other problems in the application of the guidelines once the Information Disclosure Act becomes effective.

A memorandum has been prepared for dissemination within the Executive Branch, detailing the provisions and workings of the new statute. The documentary-analysis is quite specific that the Presidential Library Act (44 U.S.C. 397) will be unaffected. Mr. Mondello expects the Assistant Attorneys General to have copies of this memorandum within a week.

Attachments